

## § 1326.137

and procedures are those in the OMB guidance.

### Subpart A—General

#### § 1326.137 Who in the Department of Commerce may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Commerce, the Secretary of Commerce or designee has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135.

### Subpart B—Covered Transactions

#### § 1326.215 Which nonprocurement transactions, in addition to those listed in 2 CFR 180.215, are not covered transactions?

(a) For purposes of the Department of Commerce, a transaction that the Department needs to respond to a national or agency-recognized emergency or disaster includes the Fisherman's Contingency Fund.

(b) For purposes of the Department of Commerce, an incidental benefit that results from ordinary governmental operations includes:

(1) Export Promotion, Trade Information and Counseling, and Trade policy.

(2) Geodetic Surveys and Services (Specialized Services).

(3) Fishery Products Inspection Certification.

(4) Standard Reference Materials.

(5) Calibration, Measurement, and Testing.

(6) Critically Evaluated Data (Standard Reference Data).

(7) Phoenix Data System.

(8) The sale or provision of products, information, and services to the general public.

(c) For purposes of the Department of Commerce, any other transaction if the application of an exclusion to the transaction is prohibited by law includes:

(1) The Administration of the Anti-dumping and Countervailing Duty Statutes.

(2) The export Trading Company Act Certification of Review Program.

(3) Trade Adjustment Assistance Program Certification.

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(4) Foreign Trade Zones Act of 1934, as amended.

(5) Statutory Import Program.

#### § 1326.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to a subcontract that is awarded by a participant in a procurement transaction covered under 2 CFR 180.220(a), if the amount of the subcontract exceeds or is expected to exceed \$25,000. This extends the coverage of the Department of Commerce nonprocurement suspension and debarment requirements to one additional tier of contracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower tier coverage in the figure in the appendix to 2 CFR part 180).

### Subpart C—Responsibilities of Participants Regarding Transactions

#### § 1326.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of the OMB guidance in 2 CFR Part 180, as supplemented by this subpart.

### Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

#### § 1326.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.